

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

CONDRA SMITH,) Case No.: 1:20-CV-00474
)
Plaintiff,)
)
Judge William C. Lee
-v-)
Magistrate Judge Susan L. Collins
UNITED STATES DEPARTMENT OF)
EDUCATION, *et al.*,)
)
Defendants.)

**MOTION FOR LEAVE TO REFILE RENEWED MOTION TO DISMISS
AND FOR EXTENSION OF TIME**

Defendant General Revenue Corporation (“GRC”) submits this motion for leave to refile its motion to dismiss—previously filed in Allen County, Indiana Superior Court on December 8, 2020 prior to removal of this action by the United States Department of Education—and for a twenty-eight (28) day extension of time from removal to do so, until January 14, 2021. Granting GRC leave to file a renewed motion to dismiss will allow GRC to renew its pleading deficiency arguments under the now-applicable Federal Rules of Civil Procedure, rather than the Indiana Trial Rules that were applicable prior to removal. GRC also intends to join in the other defendants’ anticipated forthcoming arguments that this action is barred by principles of res judicata and/or collateral estoppel based on the previously filed action in this district involving the same parties and same issues and claims, *see Smith v. U.S. Department of Education*, N.D. Ind. No. 18-cv-00348-HAC-SLC. Granting leave to GRC will allow the parties to brief these issues and arguments, and for the Court to consider them, at the same time. No prejudice will result from granting GRC’s motion for leave and for a short extension of time. GRC’s motion to dismiss was

neither considered nor ruled upon by the Indiana state court prior to removal, and consolidation of the issues and arguments under the applicable federal rules and standards will only facilitate judicial efficiency and fairness. Accordingly, good cause exists for GRC's request.

GRC therefore requests that this Court grant it leave to file a renewed motion to dismiss on or before January 14, 2021, and consider GRC's motion to dismiss and Plaintiffs opposition filed in state court to be rendered moot. No prior extensions have been granted.

Respectfully submitted,

/s/ Steven C. Coffaro

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Attorney for General Revenue Corporation

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2020, a copy of the foregoing was filed with the Court using the Clerk of Court's CM/ECF system, which by its operation will send notice of this filing to all counsel of record. A copy of the foregoing was also served by United States Mail, postage prepaid to the following:

Condra L. Smith
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Fort Wayne, IN 46806

Pro-Se Plaintiff

/s/ Steven C. Coffaro
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